

(ii) FmHA or its successor agency under Public Law 103-354 will further advise the contractor and/or manufacturer that if the defect(s) are not corrected, the Government will consider compensating the borrower for the costs of correcting the defect(s). In such a case, the contractor and/or manufacturer may be liable for costs paid by the Government and may be subject to suspension and/or debarment pursuant to subpart M of part 1940 of this chapter (available in any FmHA or its successor agency under Public Law 103-354 office). Even if the manufacturer is determined to be solely responsible for the defect, the contractor will still be held liable for correction of the defect.

(3) Should a contractor refuse to correct a defect after being officially requested in writing to do so, FmHA or its successor agency under Public Law 103-354 will promptly institute formal suspension and debarment proceedings against the contractor (as a company and as individual(s)) in accordance with subpart M of part 1940 of this chapter (available in any FmHA or its successor agency under Public Law 103-354 office). The contractor's failure to reply to official correspondence or inability to correct a defect constitutes noncompliance.

(4) If the contractor is willing to correct legitimate defects but the borrower refuses to permit this, FmHA or its successor agency under Public Law 103-354 will document the facts in the borrower's case file. If the borrower chooses to file a claim for compensation for these defects, the circumstances of the borrower's refusal will be reviewed and may be sufficient grounds for disapproval of the claim.

(f)-(h) [Reserved]

§ 1924.260 Handling manufactured housing (unit) construction complaints.

When a borrower who has purchased a manufactured home (or "unit") complains about construction defects, the borrower will be instructed to first contact the dealer-contractor from whom the unit was purchased. FmHA or its successor agency under Public Law 103-354 will assist the borrower in obtaining assistance through the dealer-contractor's and/or HUD's complaint

resolution process. If the dealer-contractor cannot resolve the complaint, the borrower should contact the appropriate State Administrative Agency (SAA) or HUD. If the complaint resolution process does not result in the correction of the defect, the borrower's complaint will be handled in accordance with § 1924.259 of this subpart.

§ 1924.261 Handling complaints involving dwellings covered by an independent or insured home warranty plan.

Borrowers with complaints about dwellings covered by an independent or insured home warranty plan will be instructed to first contact the warranty company and follow the complaint resolution process for that company, with the assistance of FmHA or its successor agency under Public Law 103-354, if needed. If the complaint is not resolved in this manner, it will be handled under § 1924.259 of this subpart.

§ 1924.262 Handling complaints involving dwellings constructed by the self-help method.

When a borrower whose dwelling was constructed by the self-help method complains about construction defects, FmHA or its successor agency under Public Law 103-354 will determine whether the defect is the result of work performed by a contractor or work performed by the borrower under the guidance of the self-help group. Defects which are determined to be the responsibility of a contractor will be handled in accordance with § 1924.259 of this subpart. Defects determined to be the result of work performed by the borrower are not eligible for compensation under this subpart.

§§ 1924.263-1924.264 [Reserved]

§ 1924.265 Eligibility for compensation for construction defects.

(a) To be eligible for assistance under this subpart, the following criteria must be met:

(1) The approval official, in consultation with the State Architect/Engineer and/or Construction Inspector, must determine that:

(i) The construction is defective in workmanship, material or equipment, or

(ii) The dwelling or unit has not been built in substantial compliance with the approved drawings and specifications, or

(iii) The dwelling or unit does not comply with the FmHA or its successor agency under Public Law 103–354 construction standards in effect at the time the loan was approved or the conditional commitment was issued, or

(iv) The property does not meet code requirements.

(2) The claim must be for one or more of the following:

(i) To pay for repairs;

(ii) To compensate the owner for repairs;

(iii) To pay emergency living or other expenses resulting from the defect; or

(iv) To acquire title to property.

(3) The dwelling or unit must be newly constructed as defined in § 1924.253 of this subpart and financed with an insured Section 502 RH loan.

(4) The claim seeking compensation from FmHA or its successor agency under Public Law 103–354 must be filed with FmHA or its successor agency under Public Law 103–354 within 18 months after the date financial assistance is granted. Defects for which claims are filed beyond the 18-month period must have been documented by FmHA or its successor agency under Public Law 103–354 in the borrower's case file or on the form designated by FmHA or its successor agency under Public Law 103–354 (available in any FmHA or its successor agency under Public Law 103–354 office), prior to expiration of the 18-month period. For loans made to construct a new dwelling or erect a new manufactured housing unit, financial assistance is granted on the date of final construction inspection and acceptance by the borrower and FmHA or its successor agency under Public Law 103–354. Claims must be submitted by completing the designated form (available in any FmHA or its successor agency under Public Law 103–354 office).

(5) Any obligation of the contractor to correct the defect(s) under a contractor's warranty must have expired, or the contractor is responsible for making corrections under the contrac-

tor's warranty but is unable or unwilling to do so.

(b) Subsequent owners of eligible dwellings or units who are also Section 502 borrowers may be eligible to receive compensation for construction defects. These owners will be notified in accordance with § 1924.258 of this subpart. However, the claim for compensation must be filed in accordance with paragraph (a)(4) of this section within the 18-month period established for the original rural housing (RH) borrower.

§ 1924.266 Purposes for which claims may be approved.

(a) *Eligible purposes.* A claim may be approved to:

(1) Pay, or reimburse the borrower for costs already paid, to repair major structural defects which are completed in accordance with plans and specifications approved by FmHA or its successor agency under Public Law 103–354. Repairs must be made by a reputable licensed contractor and a warranty covering the repairs will be issued by the contractor when the repairs are completed, as prescribed in subpart A of this part. Payment will be based on actual cost of the development and the borrower must provide evidence to reasonably establish the development cost. Workmanship and materials used in repairs must be consistent with the level of quality specified in the original dwelling or unit specifications and/or comparable to the items being replaced. Payment may be made:

(i) To cover damages which are a direct result of the defect to permanent enhancements made, such as landscaping, completion of unfinished living spaces, etc., of the dwelling or unit, installation or set-up of the unit, or related facilities, and

(ii) For costs approved by FmHA or its successor agency under Public Law 103–354 for professional reports by engineers, architects or others needed to determine cause of or means to repair the defect.

(2) Reimburse the borrower for funds expended for emergency repairs. Emergency repairs are those repairs necessary to preserve the integrity of the